

In the Matter of Merchant Mariner's Document No. Z-979367 and all other Licenses, Certificates and Documents

Issued to: ANTHONY VINCE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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ANTHONY VINCE

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

By order dated 23 May 1956, an Examiner of the United States Coast Guard at New York, New York, suspended Merchant Mariner's Document No. Z-979367 issued to Anthony Vince upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as a porter on board the American SS EXCAMBION under authority of the document above described, on or about 4 May 1956, while said vessel was in the port of Naples, Italy, he wrongfully failed to declare dutiable merchandise.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement. Appellant said he did not wish to make a statement but he admitted that the facts were as set forth in the Investigating Officer's opening statement.

At conclusion of the hearing, the Examiner announced his decision and concluded that the charge and specification had been proved by plea. He then entered the order suspending Appellant's Merchant Mariner's Document No. Z-979367, and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority, for a period of one month outright and five months on probation until twelve months after the termination of the outright suspension.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 4 May 1956, Appellant was serving as a porter on board the American SS EXCAMBION and acting under authority of his Merchant

Mariner's Document No. Z-979367 while the ship was in the port of Naples, Italy.

On this date, Appellant and another seaman on the ship secreted 2 cases (100 cartons) of cigarettes in the ship's crockery locker in an attempt to evade the Italian Customs laws. For this act, the Italian Customs officials imposed a fine upon the two seamen for failure to declare dutiable merchandise.

Appellant has no prior record during 15 years at sea.

OPINION

In order to conform with the order imposed against the documents of the other seaman who was found guilty of the identical offense as Appellant, the order in this case is modified as follows:

ORDER

That Merchant Mariner's Document No. Z-979367, and all other licenses, certificates and documents issued to Appellant by the United States Coast Guard or its predecessor authority are hereby suspended for a period of three (3) months. The suspension ordered shall not be effective provided no charge under R.S. 4450, as amended (46 U.S.C. 239), is proved against Appellant for acts committed within twelve (12) months of 23 May 1956.

If this probation is violated, the order for which probation was granted shall become effective with respect to all Merchant Mariner's Documents, certificates, and licenses here involved, and also any Merchant Mariner's Document, certificate, or license acquired by Appellant during the period of probation, at such time as designated by any Coast Guard Examiner finding the violation, and may be added to or form a part of any additional order which is entered by such Examiner.

As so modified, said order is

AFFIRMED.

J. M. Shirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 10th day of August, 1956.